

**For The
SECOND CIRCUIT**

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse at Foley Square, in the City of New York, on the 8th day of September, two thousand and three,

PRESENT: Hon. John M. Walker, Jr.,
Chief Judge
Hon. Dennis Jacobs
Hon. Guido Calabresi
Hon. José A. Cabranes
Hon. Chester J. Straub
Hon. Rosemary S. Pooler
Hon. Robert D. Sack
Hon. Sonia Sotomayor
Hon. Robert A. Katzmann
Hon. Barrington D. Parker, Jr.
Hon. Reena Raggi
Hon. Richard C. Wesley,
Circuit Judges.

WHEREAS, on April 24, 2003, the court announced certain proposed changes to its local rules, adopted Interim Local Rules 22(a) and 27(j), and invited public comment thereon through June 30, 2003 and

WHEREAS, during the period set for public comment, the court received a number of helpful and instructive commentaries, considered these carefully, and accordingly revised the text of the proposed rules.

IT IS HEREBY ORDERED that (1) Local Rules 22(a) and 27(j) are hereby adopted, effective as of this date and (2) Interim Local Rules 22(a) and 27(j) are hereby superceded.

The text of the Local Rules being adopted follows:

Local Rule 22, Certificate of Appealability

(a) Prompt Application and Contents of Motion. In cases governed by 28 U.S.C. § 2253 and FRAP Rule 22(b), where an appeal has been taken but no certificate of appealability (“COA”) has been issued by the district judge or by this court or a judge thereof, the appellant shall promptly move in this court for such a certificate. Such motion shall

identify each issue that the appellant intends to raise on appeal and shall state, with respect to each issue, facts and a brief statement with reasons showing a denial of a constitutional right. When an appeal is filed for which a COA is required and a motion that complies with this rule has not been filed within 30 days after filing the notice of appeal, the clerk shall promptly send the appellant a letter enclosing a copy of this rule and informing the appellant that the required motion for a COA must be filed with the court within 21 days and that failure to file the motion may result in denial of a COA. The motion will be submitted without oral argument. The court will ordinarily limit its consideration of the motion to the issues identified therein. Such an appeal may not proceed unless and until a certificate is granted.

Local Rule 27, Motions

(j) Motions by *Pro Se* Appellant in Civil Appeals (including *Habeas Corpus*). In any civil appeal, including an appeal in a habeas corpus proceeding or other collateral attack on a criminal conviction, a motion filed by a *pro se* appellant (including, but not limited to, a motion for a certificate of appealability (“COA”) from the denial of a writ of habeas corpus, a motion for leave to appeal *in forma pauperis*, for appointment of counsel, or for a transcript at public expense) shall identify each issue that the appellant intends to raise on appeal and shall state, with respect to each issue, facts and a brief statement of reasons showing that the issue has likely merit. When a motion filed by a *pro se* appellant does not comply with this rule, the Clerk shall promptly send the appellant a letter enclosing a copy of this rule and informing the appellant that (1) the required identification of issues and supporting facts and reasons must be filed with the court within 21 days, and (2) if the appellant fails to file the required statement, or if the court determines, on considering the appellant’s statement, that the appeal is frivolous, the court may dismiss the appeal. The motion will be submitted without oral argument. The court will ordinarily limit its consideration of the motion to the issues identified therein.

FOR THE COURT,

/s/ _____
Roseann B. MacKechnie
Clerk of Court

September 8, 2003